

Appln No. 09/370,601

Amdt date June 16, 2004

Reply to Office action of April 13, 2004

**REMARKS/ARGUMENTS**

Claims 2, 4-11, 13-16, 18-39, 41-49, 51, 52 and 54-63 now remain pending in this application, with claims 24-39 and 41-47 having been withdrawn from consideration. Applicant has amended claims 2 and 6 to more clearly define the claimed invention. The amendments find full support in the original specification, claims and drawings. For example, the amendments find support in the specification at page 3, line 28 to page 4, line 9. No new matter is presented. Applicant, therefore, respectfully submits that all of pending claims 2-16, 18-23, 48, 49, 51, 52 and 54-63, as amended, are in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and a timely indication of allowance.

In the Final Rejection dated April 13, 2004, the Examiner rejected claims 2-4, 6, 7, 12, 14-16, 18, 48, 49, 51, 52 and 54-63 under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,231,591 to Desai. However, Applicant has amended claims 2 and 6 to recite a generally rigid elongated ablation electrode. Desai neither taught nor suggested such a feature. Rather, Desai disclosed an electrode "made of a superelastic metal material." Column 13, lines 24-26. In fact, the electrode in Desai must be very flexible in order to "deform[] . . . along a predetermined path" created by the guide sheath. Column 13, lines 26-29.

Applicant has further amended claims 2 and 6 to recite the distal portion of the elongated ablation electrode forming a *preformed* angle  $\alpha$  with the remainder of the probe body. Desai neither taught nor suggested such a configuration. Rather,

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Desai disclosed an electrode that deforms according to a predetermined path.

In addition, Applicant has amended claims 2 and 6 to recite a sheath positioned on the elongated ablation electrode, the electrode having a length greater than the length of the sheath. Desai neither taught nor suggested such a configuration. To the contrary, the sheath in Desai should have a length longer than the retractable electrode. Only with a sheath longer than the electrode can the electrode pass through any predetermined path.

Finally, Applicant has also amended claims 2 and 6 to recite the elongated ablation electrode remaining in a fixed position relative to the probe body and handle during operation of the probe. Desai neither taught nor suggested such a configuration. Because the electrode in Desai is retractable and extendable within a guide sheath, the electrode cannot remain in a fixed position relative to the probe body and handle during operation of the probe. Accordingly, Applicant submits that claims 2 and 6, as amended, and all claims dependent therefrom, are now allowable.

The Examiner also rejected claims 5 and 13 under 35 U.S.C. § 103(a) as allegedly unpatentable over Desai. However, claims 5 and 13 are dependent on independent claims 2 and 6, which are now allowable. Therefore, claims 5 and 13 are allowable on that basis.

The Examiner also rejected claims 8-11 and 19-23 under 35 U.S.C. § 103(a) as allegedly unpatentable over Desai in view of U.S. Patent No. 6,176,857 to Ashley. However, claims 8-11 and 19-23 are dependent on independent claims 2 and 6, which are now

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allowable. Therefore, claims 8-11 and 19-23 are allowable on that basis.

In view of the above amendments and remarks, Applicant respectfully submits that all of pending claims 2-16, 18-23, 48, 49, 51, 52 and 54-63, as amended are in condition for allowance. Applicant therefore respectfully requests a timely indication of allowance. If there are any remaining questions that can be addressed by telephone, Applicant invites the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

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